REMARKS

This amendment is in response to the Official Action dated September 26, 2003, the shortened statutory period for filing a response expiring on October 26, 2003. Applicants submit herewith a three month extension petition to reset the deadline for responding to the Official Action to and including January 26, 2004. In view of the following traversal, reconsideration of the Examiner's restriction requirement under 35 U.S.C. § 121 is respectfully requested.

The Examiner has issued a restriction requirement under 35 U.S.C. § 121 as to claims 41-62 (Group I), drawn to a method and claims 63-84 (Group II), drawn to an apparatus. Applicants hereby provisionally elect Group I, claims 41-62, drawn to the method, for prosecution in the present application. Applicants reserve the right to file divisional applications corresponding to the non-elected claims should the restriction requirement not be withdrawn.

In order for a restriction requirement to be maintained, there must be (A) independent or distinct inventions claimed; and (B) a search burden on the Examiner. There has been no indication by the Examiner to suggest that the Group I claims and Group II claims are independent of each other. As such, the two groups must be distinct for the restriction requirement to be maintained. A method and apparatus are said to be distinct only if either the process, as claimed, can be practiced by a material different apparatus or the apparatus, as claimed, can be used to practice a material different process.

It is the Examiner's view that the claimed apparatus can be used to practice a method materially different than that claimed, such as by the use of a fluid-fluid heat exchanger. Applicants respectfully disagree with this conclusion. In a fluid-fluid heat exchanger, although heat may be transferred between the two fluids, the two fluids are not mixed to form a

single solution as in the present invention. Claim 63 clearly contemplates mixing the two fluids to obtain a "mixed fluid." Thus, it is not possible to construe the apparatus of claim 63 as a fluid-fluid heat exchanger as suggested by the Examiner. Failing part (A), the restriction requirement cannot stand. Applicants respectfully request reconsideration of the restriction requirement and further prosecution with respect to both the Group I and Group II claims.

The Examiner has also required an election to a species for the heat sensitive fluid, the second fluid, and the third fluid, in parts B1, B2 and B3 (as well as additional elections in parts B4 and B5) of the Official Action. In this regard, the undersigned notes his telephone discussions with Examiner Le regarding parts B4 and B5 of the Official Action. The undersigned wishes to thank Examiner Le for his indication that parts B4 and B5 need not be addressed in the present action. With regard to Parts B1, B2, and B3, Applicants elect glucose for the heat sensitive fluid, electrolytes for the second fluid, and water combined with at least one (1) amino acid for the third heat sensitive fluid.

In addition to the aforementioned elections, the Examiner is directed to claim amendments to claims 41 and 63. Each of these amendments is intended to more distinctly claim the subject matter which the Applicants regard as the invention.

As it is believed that all of the matters set forth in the Official Action have been fully addressed, favorable reconsideration, of the restriction requirement and prosecution on the merits are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested election, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 26, 2004

Respectfully submitted,

By _____

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